



## MILPITAS PLANNING COMMISSION STAFF REPORT

February 25, 2015

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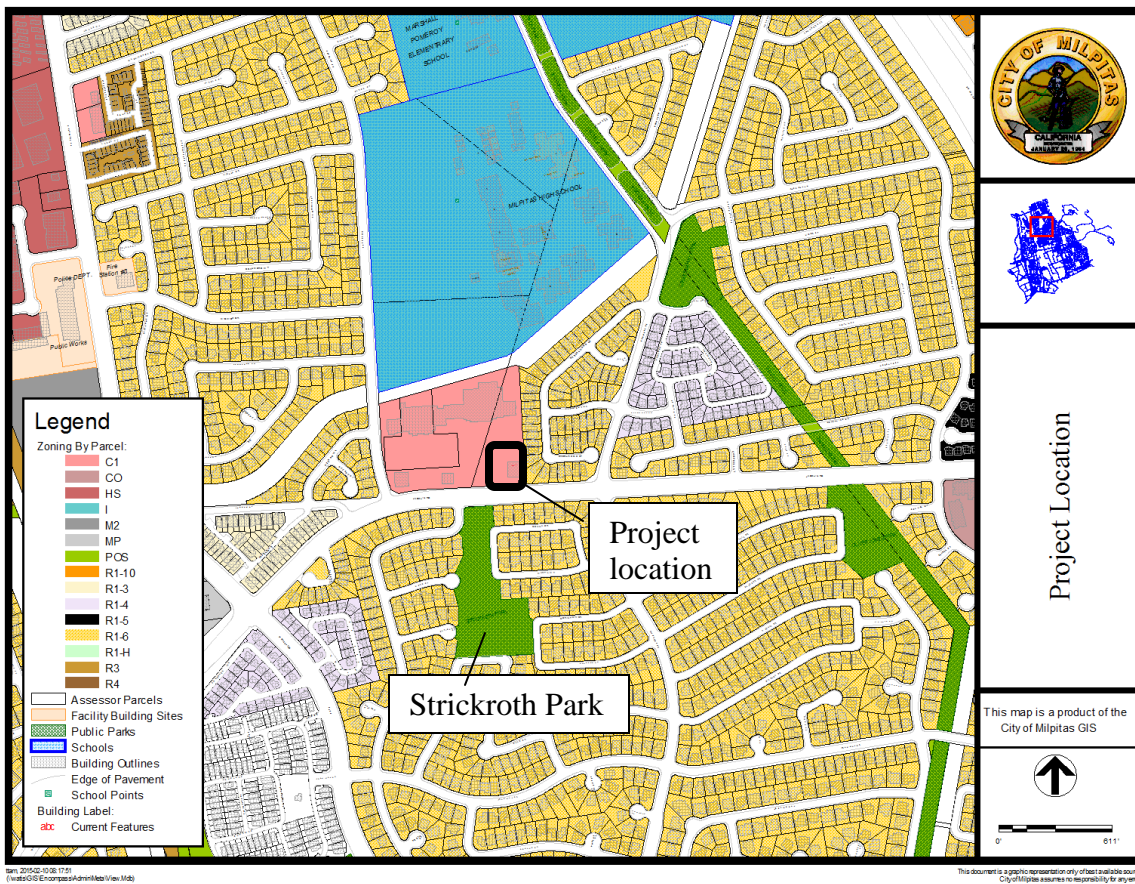
<b>APPLICATION:</b>	<b>Genius Kids CUP, Conditional Use Permit No. UP14-0014</b> A request for a Conditional Use Permit to operate a daycare and afterschool tutoring facility with a total of 75 children within an existing commercial building.
<b>RECOMMENDATION:</b>	<b>Staff recommends that the Planning Commission:</b> <b>Adopt Resolution No. 15-011 approving Conditional Use Permit No. UP14-0014 to operate a daycare and an afterschool tutoring facility with a total of 75 children within an existing commercial building located at 487 and 495 Jacklin Road, subject to findings and Conditions of Approval.</b>
<b>LOCATION:</b>	
Address/APN:	487 and 495 Jacklin Road (APN: 26-28-027)
Area of City:	Foothill Square
<b>PEOPLE:</b>	
Project Applicant:	Ashok Gupta & Pardeep Kumar
Consultant(s):	Rennu Dhillon, Genius Kids Franchiser
Property/Business Owner:	Shappel Norcal Rental Properties, LLC
Project Planner:	Tracy Tam, Assistant Planner
<b>LAND USE:</b>	
General Plan Designation:	Retail Subcenter (RSC)
Zoning District:	Neighborhood Commercial (C1)
Overlay District:	Site and Architectural Overlay (-S)
<b>ENVIRONMENTAL:</b>	Categorically Exempt from further environmental review pursuant to Section 15301 (Existing Facilities) of the California Environmental Quality Act (CEQA).

### **EXECUTIVE SUMMARY**

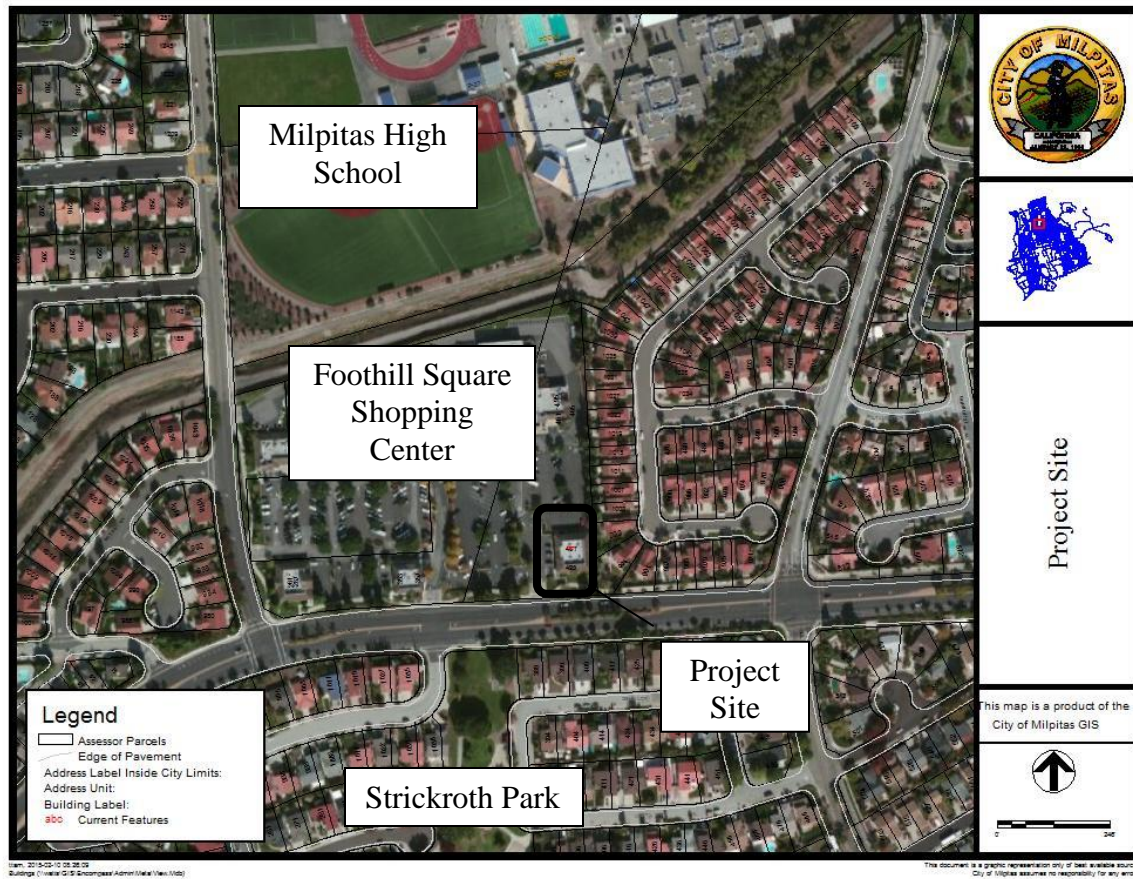
The applicant is requesting a Conditional Use Permit (CUP) to operate a daycare and an afterschool tutoring facility with a total of 75 children in an existing commercial building. The Zoning District for this project is Neighborhood Commercial (C1) and a daycare and group instruction use are conditionally permitted uses. The Project is consistent with the General Plan, Zoning Ordinance and Child Care Master Plan and staff recommends that the Planning Commission approve the project subject to the findings and Conditions of Approval included in Attachment A.

## Map 1

### Project Location

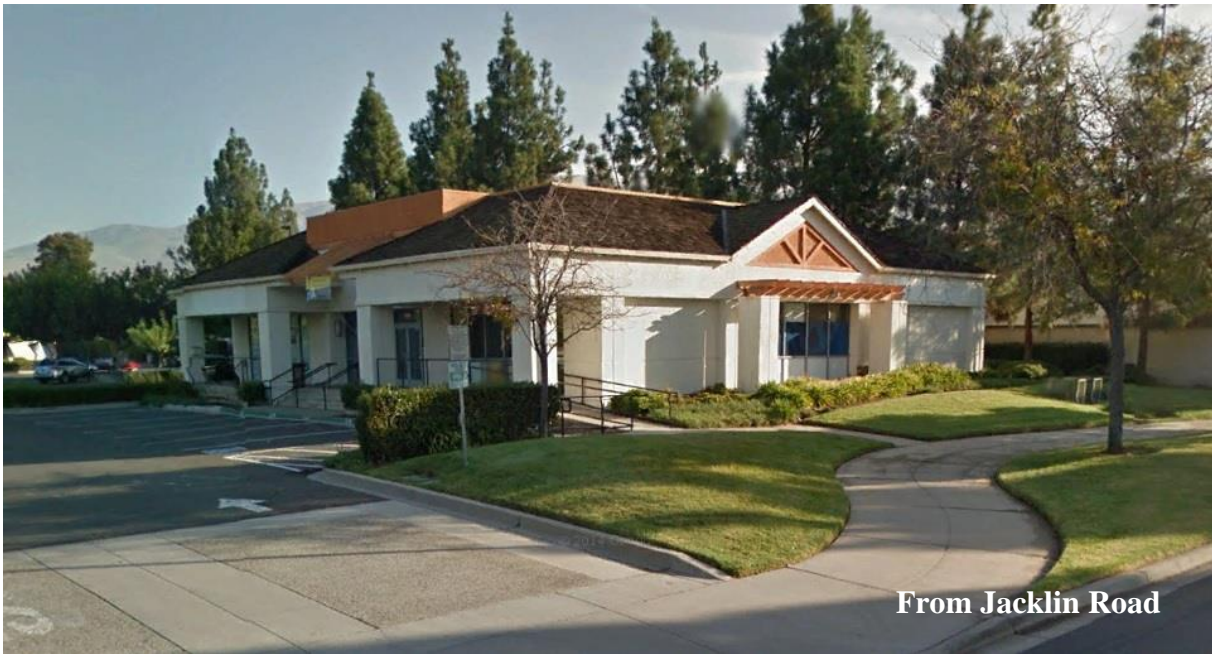


## Map 2 Project Site





## Additional Pictures



From Jacklin Road



Proposed Play Area Location

## **BACKGROUND**

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### ***History***

In 1987, the Planning Commission approved an “S” Zone permit for the construction of the Foothill Shopping Center. The Planning Commission subsequently approved the two outer pad buildings (Pad A, Pad C, and Building B) from 1998 to 2000.

On September 11, 2002, the Planning Commission approved Conditional Use Permit No. UP2002-30 and an “S” Zone Permit No. SA2002-61 for the project site to operate an educational and tutoring business serving students from kindergarten through the twelfth grade. The Conditional Use Permit did not include the daycare use and will be superseded by Conditional Use Permit No. UP14-0014.

### ***The Application***

The following is a summary of the applicant’s request:

- *Conditional Use Permit:* to allow for daycare and group tutoring use within an existing commercial building.

## **PROJECT DESCRIPTION**

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### ***Overview***

The project is requesting a Conditional Use Permit to allow for the daycare and afterschool tutoring facility use within an existing commercial building. The daycare and afterschool uses are conditionally permitted uses in the Neighborhood Commercial Zoning Designation. The project proposes a capacity of seventy-five (75) children between the ages of 2 to 11 for the daycare and hours of operation from 8:00AM to 6:30PM, Monday through Friday. The children will be dropped off from 8:30AM to 10:00AM and picked up from 5:00PM to 6:30PM. The project provides parents with the option of part-time care and full-time care. The project will include various enrichment programs in public speaking and Gifted and Talented Education (GATE) preparation. The project will be required to seek licensing from the State Department of Social Services Community Care Licensing Division and meet all state requirements for daycare.

The outdoor play times will be staggered and will occur between 10:30AM to 11:30AM and 4:00PM to 5:00PM. There will be no outdoor play times scheduled outside business hours.

The project narrative and daycare schedule is included in Attachment B.

### ***Location and Context***

The project is located in the Foothill Square Shopping Center and within a half mile of Milpitas High School, Marshall Pomeroy Elementary School, and Thomas Russell Middle School. The major cross streets are Jacklin Road and Arizona Avenue. Other tenants in the shopping center include: Nob Hill, 24 Hour Fitness, Chase Bank, and Wells Fargo. As indicated on the Project Location Map, the Project is located adjacent to residential uses to the east and south. The parcel located north of the project site is zoned Institutional, and the parcels located south, east, and west are zoned Single-Family Residential (R1-6). Located south of the project site is Strickroth Park (see location and vicinity map).

## **PROJECT ANALYSIS**

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### ***General Plan and Zoning Conformance***

#### General Plan

This project conforms to the intent of the Neighborhood Commercial designation in that it provides a commercial service that compliments the residential neighborhood. The project is also consistent with the implementing policies of the General Plan Land Use Element to promote infill development, provide all possible community facilities, and encourage the establishment of day care facilities.

#### Zoning Ordinance

The project conforms to the Zoning Ordinance in that it meets the development standards for the Neighborhood Commercial (C1) Zoning District, including the parking requirement. The Project does not propose any architectural modifications and the scope of construction is limited to the interior of the building, and the outdoor play area. The construction for the outdoor play area encompasses enclosing the landscaped area with a six-foot (6'-0") tall stucco fence with panic hardware.

#### Child Care Master Plan

The project is also consistent with the Milpitas Child Care Master Plan in that it promotes the development of new child care facilities within City limits and encourages new child care facilities to offer a variety of child care types in order to meet specific needs.

### ***Development Standards***

The table below demonstrates how the project is consistent with the development standards of the Neighborhood Commercial Zoning District.

**Table 1:**  
**Summary of Development Standards**

	<b>Standard</b>	<b>Proposed</b>	<b>Complies?</b>
<u>Setbacks</u> (Minimum)			
Front	20 feet	34 feet	Yes
Interior	15 feet when abutting residential	20 feet	Yes
Rear	15 feet when abutting residential	15 feet	Yes
<u>Building Height</u> (Maximum)	None	20 feet	Yes
<u>Landscaping</u>	None	All sides of the building	Yes

The project is not proposing any architectural alterations to the building and the construction work is limited to the inside of the existing building. The applicant is proposing to enclose a portion of the landscaped area to create an outdoor play area, as required by the State Department of Social Services. The tenant improvements include, two new classrooms for the daycare use, a new children toilet room, a new kitchenette, and a new sign-in area.

### ***Parking***

Per Table 53.09-1 of the Milpitas Municipal Code, a daycare school requires 1 parking space per classroom or 1 parking space per 500 square feet, whichever is greater. In this case, the 1 parking space per 500 square feet is greater. According to the Project Description (Attachment B), the daycare suite will be 3,063 square feet while the tutoring use will be 1,778 square feet. Based on an area of 3,063 square feet, the parking requirement for the daycare will be 6 parking stalls. There is also a provision in Table 53.09-1 which refers to the loading and unloading parking stall requirement for the daycare use. The loading and unloading requirement is one parking space per six children up to five spaces and thereafter one space per ten children. Based on a total of 75 children, the loading and unloading parking requirement is 9 parking stalls. The total number of required parking is 18 parking stalls.

<b>Use</b>	<b>Parking Ratio</b>	<b>Provided Parking</b>	<b>Required Parking</b>
<u>Daycare</u>	1 per classroom or 1 per 500 sq. ft., whichever is greater	6 parking stalls	6 parking stalls
<u>Private Instruction, Personal enrichment (Tutoring)</u>	1 per instructional area or classroom, whichever is greater. No fewer than 3 spaces.	3 parking stalls	3 parking stalls
<u>Loading and Unloading For Day Care Use</u>	1 parking space per 6 children, up to 5 spaces and thereafter 1 space per 10 children	9 parking stalls	9 parking stalls
<u>Total</u>		18 parking stalls	18 parking stalls

The Foothill Square shopping center contains approximately 470 parking stalls. Due to the existing uses and the 24 hour nature of the gym, a parking study was required to evaluate the capacity of the parking lot during the peak hours. The parking study was prepared by Hexagon Transportation Consultants to determine the capacity of the parking lot during the peak-hours (typically in the morning and in the evening) and if the proposed daycare and tutoring facility would create a parking impact to the shopping center. The study concluded that the shopping center parking lot will be able to accommodate the parking demand for proposed daycare and tutoring and future uses during the peak hours.

### ***Outdoor Play Area***

The proposed outdoor play area is located between the project building and the adjacent residential uses. It is approximately 1,600 square feet and is enclosed with a six foot tall stucco fence. As a Condition of Approval (Condition # 17), the proposed fence will match the existing building in terms of color, material, and texture. The proposed play area currently contains various tall trees and shrubs and the grading is sloped and uneven. The applicant is proposing to remove various shrubs and level the outdoor play area prior to placing the proposed wood chips. No trees are proposed to be removed. The applicant is not proposing playground equipment, but is planning on placing sand and water tables, art easels and sandboxes. The applicant is also planning on hosting educational programs in the proposed play area that teach the children about plant life.

The outdoor play times will be staggered from 10:30AM to 11:00AM and from 4:00PM to 5:00PM. As a Condition of Approval (Condition # 18), the outdoor play times shall be limited to times within the hours of operation and conducted in a manner which minimizes the noise impacts to the residential neighborhood. Condition #18 also states that there shall be no outdoor play structure taller than the bordering fence.

#### ***Drop-off and Pick-up Schedule***

The project anticipates that children will be dropped off during the peak times, from 8:30am to 10:00am and picked up from 5:00pm to 6:30pm. The project also offers parents with a part-time and full-time care option. The drop-off and pick-up will be staggered to prevent congestion along the public streets.

### **FINDINGS FOR APPROVAL**

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A finding is a statement of fact relating to the information that the Planning Commission has considered in making a decision. Findings shall identify the rationale behind the decision to take a certain action. Staff recommends the Planning Commission find the proposed project consistent with the General Plan, Zoning Ordinance, Child Care Master Plan, and all required Findings. The findings for approval are discussed in detail in Attachment A (Resolution 15-011).

### **ENVIRONMENTAL REVIEW**

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The Planning Division conducted an environmental assessment of the project in accordance with the California Environmental Quality Act (CEQA). The project is categorically exempt from further CEQA review under Section 15301 of the CEQA Guidelines, Existing Facilities. This project is categorically exempt under Section 15301 because it is an existing commercial building only interior alternations are proposed to upgrade the restroom facilities and to separate the two tenant spaces.

### **PUBLIC COMMENT**

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Public notice was provided in accordance with City and State public noticing requirements. A notice was published in the Milpitas Post on February 13, 2015. In addition, 787 notices were sent to owners and occupants within 1,000 of the project site. A public notice was also provided on the project site, on the City's Website, [www.ci.milpitas.ca.gov](http://www.ci.milpitas.ca.gov), and posted at City Hall. At the time of writing this report, there has been one letter of support for the project.

### **CONCLUSION**

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The project is requesting a Conditional Use Permit to allow for a daycare and afterschool tutoring facility in the Neighborhood Commercial (C1) Zoning District. The project is consistent with the General Plan in that it promotes in-fill development, provides a community facility to meet the needs of the region, and encourages daycare facilities consistent with State standards. The project is consistent with the Zoning Ordinance in that it meets all the development standards, including but not limited to: parking and setback requirements. Lastly, the project is consistent with the Child Care Master Plan in that it promotes the new development of new child care facilities.

## **RECOMMENDATION**

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STAFF RECOMMENDS THAT the Planning Commission:

1. Open and Close Public Hearing to receive comments;
2. Close the Public Hearing; and
3. Adopt Resolution 15-011 approving Conditional Use Permit No. UP14-0014 to operate a daycare and an afterschool tutoring facility with a total of 75 children within an existing commercial building located at 487 and 495 Jacklin Road, subject to findings and Conditions of Approval.

## **ATTACHMENTS**

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- A: Resolution 15-011
- B: Plan Set
- C: Project Narrative, Daycare Schedule
- D: Hexagon Parking Study
- E: Letter in Support